

Members

Rep. Robert Bischoff, Chair
Rep. Markt Lytle
Rep. Richard Mangus
Rep. Phyllis Pond
Sen. Kent Adams
Sen. Thomas Weatherwax
Sen. James Lewis
Sen. Richard Young



NATURAL RESOURCES STUDY COMMITTEE

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Bernadette Bartlett, Fiscal Analyst for the
Committee
Steve Wenning, Attorney for the Committee

Authority: IC 2-5-5-1

MEETING MINUTES¹

Meeting Date: October 15 and 16, 2003
Meeting Time: 2:00 p.m.
Meeting Place: Nature Center,
Pokagon State Park
Meeting City: Angola, Indiana
Meeting Number: 3

Members Present: Rep. Robert Bischoff, Chair; Rep. Markt Lytle; Rep. Richard Mangus;
Rep. Phyllis Pond; Sen. Kent Adams; Sen. Thomas Weatherwax;
Sen. James Lewis.

Members Absent: Sen. Richard Young.

Call to Order. Rep. Robert Bischoff, Chair of the Natural Resources Study Committee, called the meeting to order. After an introduction of the Committee members, the Committee heard testimony and discussed topics as indicated below.

Department of Indiana Heritage. Beth Compton, Governor's Office Executive Assistant, reported on a study being conducted by the State Budget Agency, Department of Administration, and the Department of Personnel that considered the establishment of a Department of Indiana Heritage. (See Exhibit 1.) Ms. Compton indicated that the Governor's Office was neither recommending nor not recommending the establishment of the new agency. Erin Kremer, State Personnel Department, directed the study. SB 490-2003 required that the study include an examination and recommendation for the organizational structure for the proposed department as well as the fiscal impact that would result from establishing the department. Additional inherent costs if a new department were established would include personnel costs for a commissioner, assistant commissioner, staff attorney, specialty legal services (that could be contracted), director of security, and marketing director. The fiscal impact for necessary personnel was estimated at \$300,000 a year for salary and benefits if the current marketing and security personnel were used. Otherwise, personnel costs would equal

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

\$350,000. The new department would also require a one-time investment in equipment of \$400,000 to \$450,000.

Reid Williamson, President of the Historic Landmarks Foundation, supported the concept of a department of heritage. Mr. Williamson noted that a marketing director could give attention to revenue-producing measures.

John Molitor, Indiana Historical Society and the Indiana Historic Landmarks Foundation, supported the proposed department, stressing the need to look for measures that would save money.

John Goss, Director of the Department of Natural Resources (DNR), noted that a new agency could have many different impacts on the DNR. He noted that the state had recently invested in a new State Museum and remodeled the State Library. He also noted that existing commissions were concerned because of their current reliance on DNR for certain support services.

In-House Construction for the Department of Natural Resources (DNR). John Davis, DNR Deputy Director, and Tom Holman explained that IC 4-13.6-5-4 limits construction projects that the DNR can complete using DNR employees to those projects that cost less than \$50,000. IC 4-13-2-11.1 limits the Department of Correction to projects costing less than \$100,000. All other state agencies are limited to \$75,000. The DNR proposed increasing the DNR limit to \$75,000.

DNR's seasonal work cycle allows the staff to complete construction projects during winter months when public visitation to its properties is minimal. Raising the limit might increase the number and types of projects that the DNR could complete using its own workforce. Additionally, restoration work on historic sites might benefit from the use of DNR staff because DNR staff might have a greater awareness of the historic importance of the building's material and might work to save historic material if possible.

The proposal would not require the DNR to complete all projects under \$75,000. The proposal just provides the option. The table below outlines DNR projects that were bid for 2001 and 2002. (Also, see Exhibit 2.) Rep. Bischoff asked that legislation be drafted for the Committee to vote on at its final meeting.

Projects Bid by the Department of Natural Resources									
Year	Less than \$50,000			\$50,000 to \$75,000			Greater than \$150,000		
	No.	Costs	% of Total	No.	Costs	% of Total	No.	Costs	% of Total
2001	61	\$902,279	4%	8	\$534,326	2%	38	\$23,169,810	94%
2002	83	\$1,050,852	6%	10	\$652,778	3%	40	\$17,224,920	91%
2-Year Total			4%			3%			

DNR Drainage Code Issue. Mike Neyer, Director of the DNR Division of Water, reported on a drainage code issue of concern to the Department.

IC 36-9-27 governs county surveyors, county drainage boards, and the process by which regulated drains are established, assessed, and maintained. IC 36-9-27-33 authorizes the county surveyor, the board, or an authorized representative of the surveyor or the board right of entry over and upon land lying within 75 feet of any regulated drain. County surveyors have

discretion to limit the reconstruction and/or maintenance activities on a regulated drain.

With respect to the Elkhart River, the Noble and LaGrange County Joint Drainage Board sought to commit that they would use less than their full power for reconstruction along the drain (less than 75 feet), but could not legally bind this promise on a future drainage board. Many environmental groups sued, concerned about the river's resources and unwilling to accept the surveyors' oral promise. DNR intervened because the Department manages a nature preserve and a wetland conservation area on the river.

In order to address this issue, the DNR proposed to enact in statute the following:

- that a county surveyor's final report be written;
- that the written report include reconstruction and/or maintenance activities the surveyor would use on the drain;
- that a drainage board go through a public process if it wants later to add activities;
- that the DNR be given notice when a regulated drain is established.

County surveyors from Huntington (Jay Poe), Allen (Al Frisinger), Marshall (Larry Fisher), and LaGrange (Rex Pranger) Counties and the Whitley County Engineer (Brandon Forestor) were reluctant to open the drainage code.

Representatives from the Izzac Walton League and the Indiana Wildlife Federation supported the proposal. Ted Hemstra, Ft. Wayne Acres, Inc., agreed to access as needed, but wanted to limit the right of way.

Paul Ehret, DNR Deputy Director, explained that the proposal allowed counties the option to limit right of way which the county drainage board has the option to change at a later public hearing.

Charlie O'Neal, Indiana Wildlife Federation, supported the DNR's proposal and indicated that county surveyors need to commit to doing what they say they will do.

Kathy McCoy, citizen of Steuben County, supported the DNR proposal. She described how an ecosystem was destroyed in Steuben County. Landowners were not notified.

Rep. Bischoff asked that a proposed draft on the issue be prepared for a vote at the final meeting.

Oil and Gas Reporting. Mike Nicholaus, DNR Oil and Gas Division Director, explained the issue of false reporting of the capping of oil and gas wells. Mr. Nicholaus provided diagrams showing layers of rock undisturbed by drilling that support fresh water and oil bearing zones. Drilling can open a pathway from a fresh water zone to an oil zone. To prevent contamination, wells are required to be plugged at the appropriate levels and with the appropriate materials.

To ensure that wells are plugged properly, the DNR supervises well plugging on a random basis; tests cement processes used; and reviews plugging documents. The DNR is also developing new rules to govern the plugging of wells that will limit the types of material that can be used to plug a well; that will require verification of the plug placement; and additional signature certification on the plugging and abandonment reports.

Currently, false reporting is a Class D felony for injection wells and a Class B misdemeanor for other wells. The fine for violations of the Oil and Gas Code is \$10,000 per day. The DNR proposed establishing a Class D felony for violations relating to all wells and to establish a fine of \$20,000 per day.

Barbara Brown, a citizen, asked why people who plug wells are not required to be certified.

Representative Bischoff asked that legislation be drafted to address the issue and that a representative from the oil and gas industry attend the final meeting of the committee to discuss the issue.

Interstate Pest Control Compact. Dr. Robert Waltz, State Entomologist and Director of the Division of Entomology and Plant Pathology, asked the Committee to recommend that Indiana participate in the Interstate Pest Control Compact. Dr. Waltz explained the need for the compact, citing the case of the Emerald Ash Borer, which is an insect that can destroy North American ash trees. Currently, infestations are found in southeastern Michigan, Toledo, and Hicksville, Ohio. The Hicksville infestation is within two miles of the Indiana border. In Detroit, 3,000 square miles contain infested ash trees. When a borer is found, ash trees within a one-half mile radius must be destroyed. The DNR, U.S.D.A, and the U.S. Forest Service are conducting surveys in northern Indiana. Although the Emerald Ash Borer has not yet been found in Indiana, the DNR has been monitoring trees imported from infested areas.

The DNR proposed that Indiana join the Interstate Pest Control Compact. The Compact is an insurance fund. Currently, 34 states belong. To join, Indiana must pay a one-time fee of \$33,342. The DNR has identified an existing funding source to pay the fee. The DNR asked the Committee to recommend standard language that would allow for the state to participate in the fund.

Rep. Bischoff asked that legislation pertaining to Indiana joining the Compact be drafted for the Committee to vote on at its final meeting.

Clean Water Indiana Fund. Bob Eddelman, Marion County Soil and Water Conservation District, asked for a dedicated funding source for the Clean Water Indiana Fund. He provided the Committee with an overview of the work of Indiana soil and water conservation districts. (See Exhibit 3.) Soil and Water Conservation Districts (SWCDs) have been established in all 92 counties. The districts are charged with assessing natural resource conditions and developing programs to solve soil, water, and related resource problems. County governments currently provide about \$4.5 M for SWCD operations. In 2001, \$2 M of the Build Indiana Fund were appropriated for SWCDs; however, budget deficit problems resulted in the withdrawal of \$1M of these funds.

In 2003 over 4,400 landowners requested over \$73 M in financial assistance to install conservation measures such as nutrient and pesticide management, grassed waterways, conservation tillage, tree planting, wetland restoration, pasture improvement, etc. However, less than 23% of this amount was available from the U.S. Department of Agriculture (USDA).

The USDA is working with Indiana to develop the Conservation Reserve Enhancement Program (CREP), which will allow Indiana to leverage \$4 to \$8 for every \$1 from the state. The program will provide funding for planting of vegetative buffers along streams and other waters, which will filter nutrients and sediment from water runoff. Missouri has spent over \$30 M in conservation efforts; Illinois has spent \$21 M; Iowa, \$13 M; Ohio, \$11 M; and Michigan, \$8 M.

Charley O'Neal, Indiana Wildlife Federation, supported funding for the program as did Jason Hill, Regional Biologist for Ducks Unlimited. Mr. Hill read a statement to the Committee wherein he announced that Ducks Unlimited was interested in becoming a financial partner in the CREP in Indiana. (See Exhibit 4.) Danny Blandford, Conservation Director of Indiana B.A.S.S., submitted a letter to the Committee encouraging the establishment of dedicated and permanent funding for Clean Water Indiana. (See Exhibit 5.)

Sandra Flumm, Allen County Commissioners Office, indicated that locals need a position on the board that directs the SWCDs.

Barbara Power, a citizen, suggested leasing state land and use the revenue generated by the lease to fund Clean Water Indiana.

Recess. The committee recessed at 7:00 p.m. and reconvened at 8:30 a.m. on October 15.

Senior Fishing License. Director Goss proposed that the DNR be allowed to decrease the cost of a license to fish by \$10.50 per license to \$3 per license for anglers 60 to 64 years. He also proposed establishing a new senior fishing license for those 65 and older. Reasons for the new license were as follows:

–Revenue from the sale of fishing and hunting licenses go into the Fish and Wildlife Fund that is used to pay the operating expenses of the Divisions of Law Enforcement and Fish and Wildlife.

–A \$3 senior fishing license would provide a \$248,827 increase in license revenue for the Fish and Wildlife Fund.

– For each new fishing license sold, the federal government would provide \$6.60 in reimbursement. Given the projected 87,462 anglers aged 65 or over, an additional \$577,249 in fishing equipment excise tax would be returned to the state instead of going to other states.

–The proposal is built on the premise that those who use the resource pay for the management and protection of the resource. Four surrounding states have senior fishing licenses: Michigan (\$10.80); Illinois (\$10); Kentucky (\$5); and Ohio (\$10).

Director Goss noted that the DNR is attempting to be responsive to constituency groups. Senior fishing license legislation has been proposed by the Indiana Sportsman's Roundtable during the 2002 and 2003 legislative sessions.

The fiscal impact of the proposed license is as follows:

Fiscal Impact of DNR Proposed Fishing License from Those 60 Years and Older					
Increase in revenue for new angler license for those 65 and older					
# of anglers 65 +	New Federal Reimbursement per Angler	License Fee	Per License Revenue (\$3-\$0.75 retained by vendor)	New Trout/Salmon Stamp Revenue (6,122*(\$9.25 less \$0.75))	Annual Fiscal Impact
87,462	\$6.60	\$3	\$2.25	\$52,037	\$826,076
Decrease in revenue for existing angler license for those 60 to 64					
# of anglers 60-64	New Federal Reimbursement and Trout/Salmon Stamp Revenue	License Fee	Decrease in Revenue Per License (from \$14.25-\$3 with \$0.75 retained by the vendor)		Annual Fiscal Impact
2,734	Currently accounted for	\$3	(\$10.50)/per license		(\$28,707)
Total Net Impact	\$826,076 - \$28,707 =			\$797,369	

Dick Mercier, Indiana Sportsman's Roundtable; Jack Hyden, Indiana Beagle Alliance; and Charlie O'Neal and Paula Yeager of the Indiana Wildlife Federation supported the proposal.

Rep. Bischoff asked that proposed legislation be drafted for a vote at the final committee meeting.

Pokagon State Park. Randy White, Manager of Pokagon State Park, provided an overview of the park, which includes 1,200 acres. Mr. White also commented that the centralized reservation system has been successful.

The park naturalist provided Committee members with information pertaining to a new land acquisition of 29 acres for the park. The land was previously occupied by owners of an old motel.

Dog Field Trial Update. John Davis explained that state fish and wildlife areas and state reservoirs have a dog training area. The DNR is looking for properties that are accessible year round. Ohio maintains 19 dog training properties. Indiana has 28-30 potential properties. He will provide the Committee with an update at the final October meeting.

Dick Mercier noted that the DNR proposal pertained to dog training but did not address the horseback field trial issue.

Jack Hyden noted that the minutes from the previous meeting did not distinguish between dog training and horse back field trials. He noted that they are different issues. Indiana needs at least ten areas for dog training.

Native American Indian Commission. Ms. Compton had reviewed actions taken on the 2003 bill to create the Native American Indian Affairs Commission that was vetoed by Governor O'Bannon. She indicated that the bill did not include the Miami Indians of Indiana. The Governor created a commission by executive order using language similar to language that was in the bill. The Governor's Office started seeking appointments to the commission. Governor Kernan has issued a new executive order continuing the O'Bannon executive order.

Brian Buchanan, Chief of the Miami Indians, John Dunnigan, Penny Fouts, Brenda Hartleroad, and Sara Siders supported the establishment of the new commission in statute.

Debra Haza and Sally Tuttle, Native Americans, supported the establishment of the commission through legislation. Ms. Tuttle noted that there are 39,263 Native Americans in Indiana.

Rep. Bischoff asked that a draft establishing the commission be prepared for the final meeting. The draft should be effective upon passage and should reflect language that passed the Senate in 2003. He asked that interested parties report to the Committee on October 28th.

Brenda Hartleroad, Miami tribe member, indicated an interest in being a member of the commission.

Piers and Easements. Coleen Synder and Fritz Nodine, Oakwood Place Association, described the difficulties that the Association faced relative to the construction of piers on easements. The development was plotted in 1913. All properties had waterfront easement rights. In 2001, the DNR allowed piers to be placed on three easements. The Association was not sure about what rights the 150 others have on the piers. The development is located on Hamilton Lake between Auburn and Angola.

The Association voted not to allow piers on the easements and would like to have a law that specifies and clarifies rules that would apply to the construction of piers on easements. She noted that a funneling problem exists whereby multiple users have access and use the

easements.

Pam Chris, Secretary of the Oakwood Place Association, who lives next to the easement, noted that about 30 piers go out from the easement at all angles.

Dan Mathis, DNR, explained that the issue had been litigated via the Natural Resources Commission and was appealed to the local court; however, the appeal was withdrawn.

The Association, however, indicated that it was not familiar with a voluntary withdraw of the appeal.

Niann Lutzenheiser, a citizen, expressed her concern about access to a lake from neighboring subdivisions.

Next Meeting Date. The Committee adjourned. It will meet again at 10:00 a.m. on Tuesday, October 28, 2003, at the Garrison at Fort Harrison State Park in Indianapolis.